LOCAL RULES OF CIVIL PROCEDURE

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Rule 1.1 Effective Date; Revocation of Prior Rules

The Rules of Civil Procedure of the United States District Court for the Eastern District of Pennsylvania are adopted this 22nd day of May, 1995, and shall become effective on the 1st day of July, 1995, as amended January 21, 1997, March 3, 1997 and August 3, 1998.

Rule 1.1.1 Standing Orders; Effect upon

The following Standing Orders are in effect and copies may be obtained from the Office of the Clerk of Court:
(a) Court Approval of Reporters Required for Taking Depositions dated June 30, 1959;

(b) Calendar Control dated January 1, 1970;

(c) Civil Suspense Docket dated June 24, 1975;

(d) Bankruptcy Administration Orders dated July 25, 1984, November 8, 1990, and June 29, 1992;

(e) Assignment Procedure for Habeas Corpus and Social Security Cases for United States Magistrates dated May 29, 1990;

(f) Order Adopting Civil Justice Expense and Delay Reduction Plan dated October 25, 1991;

(g) Approval of Pre-Judgment Notice of 28 USC 3101(d) dated May 7, 1992;

(h) Standing Order Re 1993 Amendments to Federal Rules of Civil Procedure Dated December 1, 1993; and,

(I) Presentence Investigations and Time Limits dated June 13, 1994.

Rule 3.2 Transfers under Section 1404(a)

Whenever a transfer of an action is ordered from this district to another district, pursuant to 28 U.S.C. 1404(a), all action to carry out the transfer shall automatically be stayed for a period of twenty (20) days, unless the court in ordering the transfer shall expressly direct otherwise.

Rule 4.1 Special Appointment for Service of Process

When a party files a written motion with the Clerk for special appointment of a named person, other than the United States Marshal or the Marshal's deputy, to serve process pursuant to Fed.R.Civ.P. 4(c), accompanied by the representation of counsel that

(1) the named individual is or would be competent and not less than eighteen (18) years of age;

(2) the named individual is not and will not be a party to the action,

the Clerk shall grant such motion specially appointing the named individual to serve process.

Rule 4.1.1 Liz Pendens

Whenever any proceeding involving title to real property shall be commenced in this court, and a party desires to give notice thereof by way of Liz pendens, counsel for said party, at any time after commencement of said proceedings, shall file with the Clerk a written order directing him to enter said proceedings upon the judgment index, which order shall designate the persons against whom said proceeding is to be indexed. The Clerk shall note on said index the names of the persons indicated in said order, the number of said action, and the date when the entry is made. Counsel ordering the notation shall forthwith send written notice thereof to the parties designated.

Rule 4.1.2 Summons Enforcement Proceedings Pursuant to 26 U.S.C. 7402(b) and 7604(a)

(a) The Federal Rules of Civil Procedure shall be applicable in summons enforcement proceedings initiated pursuant to 26 U.S.C. 7402(b) and 7604(a) (hereinafter enforcement proceedings), except to the extent modified, limited or abrogated by this rule or by order of the Court entered during such proceedings.

(b) Each enforcement proceeding shall be initiated by complaint filed by the Secretary of the Treasury (hereinafter the Secretary) or the Secretary's delegate, which shall separately allege:

(1) that an investigation by the Internal Revenue Service is contemplated or in process, that such investigation has a legitimate purpose, and that the inquiry which is the subject of the enforcement proceeding may be relevant to that purpose:

(2) that the books, papers, records, data or testimony sought are not already in the possession of the Internal Revenue Service; and

(3) that the Secretary or the Secretary's delegate has complied with all administrative procedures required by the Internal Revenue Code of 1954, as amended. Attached to the complaint shall be an affidavit of the Secretary of the Secretary's delegate in support of each of the allegations required by this rule.

(c) Process upon such complaint shall be in the form of an order signed by the court and served upon the person summoned, directing that such person appear at a date and time certain (not less than ten (10) days from the date of service of the order) and show cause why an order should not be entered enforcing the administrative summons. The order to show cause shall:

(1) set a date for the filing of an answer, motion or other responsive pleading by the person summoned, together with an affidavit in support thereof, and

(2) notify the person summoned that only those issues raised in the pleadings or motions and supported by affidavit will be considered by the court on the return date, and that any uncontested allegation in the complaint will be taken as admitted for the purpose of the enforcement proceedings.

(d) At the hearing upon the order to show cause, the Secretary or the Secretary's delegate shall be prepared to prove the material allegations of the complaint. The person summoned may rebut the evidence offered by the Secretary or the Secretary's delegate, and shall have the burden of proof with respect to any affirmative defenses raised in the motions or responsive pleading. If the interests of justice so require, the court may direct further proceedings in the matter, and may order such discovery as is permitted by law. At the conclusion of the enforcement proceedings, the court shall make findings of fact and conclusions of law in conformity with Rule 52(a) of the Federal Rules of Civil Procedure.

Rule 5.1 Appearances

(a) The filing of a pleading, motion or stipulation shall be deemed an entry of appearance. Other appearances of counsel shall be by praecipe filed with the Clerk.

(b) Any party who appears pro SE shall file with the party's appearance or with the party's initial pleading an address within the district where notices and papers can be served.

(c) An attorney's appearance may not be withdrawn except by leave of court, unless another attorney of this court shall at the same time enter an appearance for the same party.

Rule 5.1.1 Pleading Claim for Unliquidated Damages

No pleading asserting a claim for unliquidated damages shall contain any allegation as to the specific dollar amount claimed, but such pleadings shall contain allegations sufficient to establish the jurisdiction of the court, to reveal whether the case is or is not subject to arbitration under Local Rule 53.2, and to specify the nature of the damages claimed e.g., 'compensatory,' 'punitive,' or both.

Rule 7.1 Motion Practice

(a) Every motion shall be accompanied by a form of order which, if approved by the court, would grant the relief sought by the motion. Every response in opposition to a motion shall be accompanied by a form of order, which, if approved by the court, will deny or amend the relief sought by the motion.

(b) Every uncontested motion shall be accompanied by a certificate of counsel that such motion is uncontested.

(c) Every motion not certified as uncontested, or not governed by Local Civil Rule 26.1(g), shall be accompanied by a brief containing a concise statement of the legal contentions and authorities relied upon in support of the motion. Unless the parties have agreed upon a different schedule and such agreement is approved under Local Civil Rule 7.4 and is set forth in the motion, or unless the Court directs otherwise, any party opposing the motion shall serve a brief in opposition, together with such answer or other response which may be appropriate, within fourteen (14) days after service of the motion and supporting brief. In the absence of timely response, the motion may be granted as uncontested except that a summary judgment motion, to which there has been no timely response, will be governed by Fed.R.Civ.P. 56(c). The court may require or permit further briefs if appropriate.

(d) Every motion not certified as uncontested shall be accompanied by a written statement as to the date and manner of service of the motion and supporting brief.

(e) Within fourteen (14) days after filing any post-trial motion, the movant shall either (a) order a transcript of the trial by a writing delivered to the Court Reporter Supervisor, or (b) file a verified motion showing good cause to be excused from this requirement. Unless a transcript is thus ordered, or the movant excused from ordering a transcript, the post-trial motion may be dismissed for lack of prosecution.

(f) Any interested party may request oral argument on a motion. The court may require oral argument, whether or not requested by a party. The court may dispose of a motion without oral argument.

(g) Motions for reconsideration or reargument shall be served and filed within ten (10) days after the entry of the judgment, order, or decree concerned.

Rule 7.4 Notices; Stipulations

(a) All notices by parties or counsel shall be in writing.

(b) Stipulations of Counsel

(1) Stipulations of counsel relating to the business of the court, except such stipulations at bar as are noted by the Clerk upon the minutes or by the court reporter's notes, shall be written and signed by counsel of record. Upon receipt of a stipulation, the Clerk shall stamp the date it is received and forward it to the Court for consideration.

(2) When the parties file with the Clerk a written stipulation for an extension of time to answer, plead or otherwise move, and no such prior extension has been granted (which shall affirmatively appear in the stipulation), the Clerk shall grant the stipulated extension for a period not exceeding thirty (30) days by endorsement upon the stipulation.

(3) Except as provided in paragraph (2) and except as permitted by Federal Rule of Civil Procedure 29, no stipulation between the parties relating to extension of time shall be effective until approved by the court.

Rule 9.3 Petitions for Writs of Habeas Corpus and 2255 Motions

(a) All petitions for writs of habeas corpus and all motions pursuant to 28 U.S.C. 2255 shall be filed on forms provided by the Court and shall contain the information called for by such forms. The required information shall be set concisely and legibly. Ordinarily, the court will consider only those matters which are set forth on the forms provided by the court. Any attempt to circumvent this requirement by purporting to incorporate by reference other documents which do not comply with this Rule may result in dismissal of the petition.

(b) Any petition filed under 28 U.S.C. 2254 or motion filed under 28 U.S.C. 2255 which does not substantially comply with Rules 2 and 3 of the Rules governing petitions and

motions filed under those sections may be returned by the Clerk of the Court to the petitioner, if a judge of the court so directs, together with a statement of the reason for its return. A copy of any petition or motion returned for failure to comply shall be retained by the Clerk.

Rule 14.1 Time of Motion to Join Third Party

(a) Applications pursuant to Fed.R.Civ.P. 14 for leave to join additional parties after the expiration of the time limits specified in that rule will ordinarily be denied as untimely unless filed not more than ninety (90) days after the service of the moving party's answer. If it is made to appear, to the satisfaction of the court, that the identity of the party sought to be joined, or the basis for joinder, could not, with reasonable diligence, have been ascertained within said time period, a brief further extension of time may be granted by the court in the interests of justice.

(b) In cases subject to compulsory arbitration pursuant to Local Civil Rule 53.2, unless otherwise ordered by the court for cause shown, all applications for leave to join additional parties shall be deemed untimely unless filed before the entry appointing arbitrators.

Rule 16.1 Pretrial Procedure

(a) Introductory Comments. Variations from the pretrial procedures established by this Rule may be ordered by the assigned judge to fit the circumstances of a particular case. In the absence of such specific order, however, the procedures outlined herein will be followed in all civil proceedings in this court except those exempt by Local Civil Rule 16.2. In addition, the assigned judge or magistrate will issue a scheduling order in compliance with Federal Rule of Civil Procedure 16(b) in all civil cases, except those expressly exempt by Local Rule 16.2.

It is contemplated that each civil case will proceed through the following pretrial steps:

(1) A scheduling conference, as provided in section (b) of this Rule.

(2) Submission of pretrial memoranda, as provided in section (c) of this rule.

(3) Such interim status calls, status reports, or interim conferences as the judge may direct.

(4) Completion of discovery.

(5) Submission of a Final Pretrial Order, if required (see section (d)(2), below).

(6) A final pretrial conference, as provided in section (d)(3) of this Rule.

(b) Scheduling Conference. In all cases except those exempt by Local Civil Rule 16.2, a scheduling conference will ordinarily be held by the assigned judge or magistrate within 120 days after the filing of the complaint. Such conference may be by telephone, mail or other suitable means. The following matters, in addition to those set forth in Federal Rule of Civil Procedure 16, will be considered at the conference:

(1) Jurisdictional defects, if any.

(2) Prospects of amicable settlement.

(3) Setting a date for trial.

(4) Establishing schedules for remaining pretrial proceedings (discovery deadlines, pretrial memoranda filings, exchange of exhibits, exchange of experts' reports, etc.).

(5) Any other pertinent matters.

In all civil cases, except those exempt by Rule 16.2, a scheduling order will be issued as soon as practical, but in no event more than one hundred twenty (120) days after filing of the complaint.

(c) Pretrial Memoranda. Pretrial memoranda shall be filed and served at such time as the court shall direct in the scheduling order or by any other express order.

Unless the order otherwise directs, the pretrial memorandum of each party shall contain the following:

(1) A brief statement of the nature of the action and the basis on which the jurisdiction of the court is invoked.

(2) Plaintiff's pretrial memorandum shall contain a brief statement of the facts of the case. Defendant's pretrial memorandum shall contain such counter-statements of the facts as may be necessary to reflect any disagreement with plaintiff's statement. All parties omit pejorative characterizations, hyperbole, and conclusory generalizations.

(3) A list of every item of monetary damages claimed, including (as appropriate) computations of lost earnings and loss of future earning capacity, medical expenses (itemized), property damages, etc. If relief other than monetary damages is sought, information adequate for framing an order granting the relief sought shall be furnished.

(4) A list showing the names and addresses of all witnesses the party submitting the

memorandum intends to call at trial. Liability and damages witnesses shall be designated separately.

(5) A schedule of all exhibits to be offered at trial by the party submitting the memorandum.

(6) An estimate of the number of days required for trial.

(7) Special comments regarding legal issues, stipulations, amendments of pleadings, or other appropriate matters.

(d) Final Preparation for Trial.

1. Minimum Requirements. In every case, counsel shall, before the commencement of trial:

(a) Mark and exchange all exhibits to be offered in evidence during case in chief. Authenticity of all exhibits will be deemed established unless written objection is filed (either in a pretrial memorandum or by motion) at least five (5) days before trial.

(b) Exchange lists of witnesses. No witness not listed may be called during case in chief. Requests during trial for offers of proof will not ordinarily be entertained with respect to listed witnesses; counsel are expected to clarify any uncertainties concerning the substance of proposed testimony in advance of trial, by conferring with opposing counsel.

2. Final Pretrial Order. If the case is unusually complex, or if the pretrial memoranda are inadequate, or if the judge determines that the circumstances of the litigation make it desirable to do so, the judge may require the parties to prepare and submit for approval a Final Pretrial Order. When a Final Pretrial Order is required, the following provisions shall apply:

(a) Instructions for Preparation of Proposed Final Pretrial Order. The proposed pretrial order shall consist of one document signed by all counsel, reflecting the efforts of all counsel. It is the obligation of plaintiff's counsel to initiate the procedures for its preparation, and to assemble, and to submit the proposed pretrial order to the judge.

Counsel may find it advantageous to prepare the proposed pretrial order jointly in one conference, or each attorney may prepare his or her section which will then be circulated with other counsel for review and approval. No explicit directions covering the mechanics of preparation are included in these instructions. However, after each counsel has submitted suggestions to other counsel, all counsel must have a conference to attempt to reconcile any matters on which there is disagreement. Counsel are expected to make a diligent effort to prepare a proposed pretrial order in which will be noted all of the issues on which the parties are in agreement and all of those issues on which they disagree. The

proposed pretrial order shall be submitted by counsel for the plaintiff at chambers at least three (3) days prior to the scheduled final pretrial conference, unless another date is specified by the judge.

The proposed pretrial order, if accepted by the judge, will become a final pretrial order and shall govern the conduct of the trial and shall supersede all prior pleadings in the case. Amendments will be allowed only in exceptional circumstances to prevent manifest injustice.

After the proposed pretrial order has been designated as the final pretrial order, the case will be considered ready for trial.

(b) Form of Proposed Pretrial Order. The proposed pretrial order shall be in the following form:

(CAPTION)

(1) Jurisdiction. A statement as to the nature of the action and the basis on which the jurisdiction of the court is invoked.

(2) Facts. A comprehensive written stipulation of all uncontested facts in such form that it can be read to the jury as the first evidence at trial.

(A) These facts should include all matters capable of ascertainment, such as ownership, agency, dimensions, physical characteristics, weather conditions, road surfaces, etc. Approximations and estimates which are satisfactory to counsel will be accepted by the judge.

(B) No facts should be denied unless opposing counsel expects to present contrary evidence on the point of trial, or genuinely challenges the fact on credibility grounds.

(C) The facts relating to liability and to damages are to be separately stated.

(D) The parties shall reach agreement on uncontested facts even though relevancy is disputed, if such facts are ruled admissible, they need not be proved.

(E) the parties shall also set forth their respective statements as to the facts which are in dispute, separating those referring to liability from those referring to damages.

(3) Damages or Other Relief. A statement of damages claimed or relief sought.

(A) A party seeking damages shall list each item claimed under a separate descriptive heading (personal injury, wrongful death, survival, loss of profits, loss of wages,

deprivation of civil rights, false imprisonment, libel, slander, property damage, pain, suffering, past and future medical expense, balance due under a contract, performance due under a contract, interest, etc.), shall provide a detailed description of each item, and state the amount of damages claimed.

(B) A party seeking relief other than damages shall list under separate paragraphs the exact form of relief sought with precise designations of the persons, parties, places and things expected to be included in any order providing relief.

(4) Legal Issues. In separate paragraphs, each disputed legal issue that must be decided and the principal constitutional, statutory, regulatory, and decisional authorities relied upon.

(5) Witnesses. Under separate headings, and under separate headings for liability and damages, the names and addresses of all witnesses whom the plaintiff, defendant, and third parties actually intend to call at trial, during their respective case in chief.

(A) Witnesses shall be listed in the order they will be called. Each witness shall be identified and there shall be a brief statement of the evidence which the witness will give.

(B) A detailed summary of the qualifications of each expert witness shall be submitted. This summary shall be in such form that it can be read to the jury when the expert takes the stand to testify.

(C) Only those witnesses listed will be permitted to testify at trial, except to prevent manifest injustice.

(6) Exhibits. A schedule of all exhibits to be offered in evidence at trial, together with a statement of those agreed to be admissible and the grounds for objection to any not so agreed upon.

(A) The exhibits shall be serially numbered, and be physically marked before trial in accordance with the schedule.

(B) Where testimony is expected to be offered as to geographical location, building, structure, waterway, highway, road, walkway, or parcel of real estate, plaintiff shall furnish an exhibit in such form that it can be used in the courtroom as an aid to oral testimony.

(I) Except in those cases where the issues require the use of exact scale, the exhibit may be a simple single-line hand-drawn sketch.

(ii) In most instances, it will not be necessary that the exhibit be to scale or contain other

than reasonably accurate features of the geographical characteristics involved.

(iii) If of adequate size and clarity, this exhibit may be an existing drawing, plan or blueprint.

(C) Except for unusual circumstances, it is expected that the authenticity or genuineness of all exhibits, including non-documentary items, documents, photographs and data from business records from sources other than parties to the litigation, will routinely be stipulated to and will be received in evidence if relevant. Counsel likewise are expected to agree upon the use of accurate extracts from or summaries of such records. Life expectancy tables, actuarial tables, and other similar statistical and tabular data routinely used in litigation in the Federal Courts should also normally be stipulated.

(D) At trial, counsel shall furnish a copy of each exhibit to the judge, if the judge so requests.

(7) Legal Issues and Pleadings. Special comments regarding the legal issues or any amendments to the legal pleadings not otherwise set forth.

(8) Trial Time. An estimate of the number of trial days required, separately stated for liability and damages.

(9) Discovery Evidence and Trial Depositions. Each discovery item and trial deposition to be offered into evidence.

(A) Where the videotape or deposition of a witness is to be offered in evidence, counsel shall review it so that there can be eliminated irrelevancies, side comments, resolved objections, and other matters not necessary for consideration by the trier of fact. Counsel shall designate by page the specific portions of deposition testimony and by number the interrogatories which shall be offered in evidence at the trial.

(B) Depositions and interrogatories to be used for cross-examination or impeachment need not be listed or purged. (When a final order is required, the judge may nevertheless permit appropriate modification of the above form.)

3. Final Pretrial Conference. A final pretrial conference will ordinarily be held shortly before trial. It shall be attended by trial counsel, who must be either authorized and empowered to make binding decisions concerning settlement, or able to obtain such authority by telephone in the course of the conference. In addition to exploring the final positions of the parties regarding settlement, the court will consider at the conference some or all of the following:

The simplification of the issues, the necessity or desirability of amendments to the

pleadings, the separation of issues, the desirability of an impartial medical examination, the limitation of the number of expert witnesses, the probable length of the trial, the desirability of trial briefs, evidentiary questions, the submission of points for charge, and such other matters as may aid in the trial or other disposition of the action.

4. Miscellaneous Provisions Relating to Trial and Preparation for Trial.

(a) Requests for Jury Instructions. Requests for jury instructions are not required with respect to familiar points of law not in dispute between the parties. As to such matters, counsel should consider simply listing the subject desired to be covered in the charge (e.g., negligence, proximate cause, assumption of risk, burden of proof, credibility, etc.), unless specific phraseology is deemed important in the particular case. With respect to non-routine legal issues, requests for instructions should be accompanied by appropriate citations of legal authorities. All requests for instructions shall be submitted in writing, in duplicate, at chambers; unless the judge orders otherwise, such requests shall be filed at or before commencement of the trial, but amendments or supplements may be submitted at the close of the evidence.

(b) Special Interrogatories. Proposals concerning the form of special interrogatories to the jury shall be submitted at such time as may be specified by the judge; in the absence of specific direction, such proposals shall be submitted at the earliest convenient time, and not later than the close of the evidence.

(c) Requests for Findings in Non-Jury Cases.
In non-jury cases, requests for findings of fact and conclusions of law shall be submitted in duplicate at chambers at the start of the trial, or as the judge may otherwise direct.

(d) Special Arrangements. Any counsel desiring special equipment, devices, personnel, or courtroom arrangements will be responsible for assuring that such items are available as needed. Court personnel should not be expected or depended upon to provide such service for any party or counsel, unless so ordered by the judge. Arrangements for daily copy shall be made at least two weeks in advance of trial, with the assigned Court Reporter Coordinator.

(e) Continuances. Trial will not ordinarily be continued because of the unavailability of a witness, particularly an expert witness. If a witness's availability for trial is doubtful, counsel will be expected to arrange for a written or videotaped trial deposition.

Rule 16.2 Civil Cases Exempt From Issuance Of A Scheduling Order

The following categories of civil cases shall, unless the assigned judge directs otherwise, be exempt, as inappropriate, from the provision of Federal Rule of Civil Procedure 16(b) that

mandate the issuance of a scheduling order, and from the requirements of Local Rule 16.1.

1. Appeals from the final determination of the Secretary of Health and Human Services, 42 U.S.C. 405(g) (Social Security Appeals).

2. Habeas Corpus petitions and actions pursuant to 28 U.S.C. 2254 and 2255.

3. Actions eligible for or referred to arbitration pursuant to Local Rule 53.2.

4. Actions for review of administrative agency actions pursuant to 5 U.S.C. 702 (Administrative Procedure Act).

5. Actions by the United States for repayment of loans in default.

6. Actions to enforce rights under an employee welfare benefit plan pursuant to 29 U.S.C. 1132 (ERISA).

7. Internal Revenue Service Proceedings to enforce civil summons pursuant to 26 U.S.C. 7402.

8. Bankruptcy Appeals.

9. Pro SE prisoner civil rights actions.

10. Actions in which no pleading or appearance has been filed on behalf of any party defendant within 120 days from the filing of the complaint.

11. RESCINDED

Rule 23.1 Class Actions

In any case sought to be maintained as a class action:

(a) The complaint shall bear next to its caption the legend, "Complaint -- Class Action."

(b) The complaint shall contain under a separate heading, styled "Class Action Allegations":

(1) A reference to the portion or portions of Fed. R. C.V.. P. 23 under which it is claimed that the suit is properly maintainable as a class action.

(2) Appropriate allegations thought to justify such claim, including, but not necessarily

limited to:

A. the size (or approximate size) and definition of the alleged class,

B. the basis upon which the plaintiff (or plaintiffs) claims,

(I) to be an adequate representative of the class, or

(ii) if the class is comprised of defendants, that those named as parties are adequate representatives of the class.

C. the alleged questions of law and fact claimed to be common to the class, and

D. in actions claimed to be maintainable as class actions under subdivision (b) (3) of Fed. R. C.V.. P. 23, allegations thought to support the findings required by that subdivision.

(c) Within ninety (90) days after the filing of a complaint in a class action, unless this period is extended on motion of good cause appearing, the plaintiff shall move for a determination under subdivision (c)(1) of Fed. R. C.V.. P. 23, as to whether the case is to be maintained as a class action. In ruling upon a motion, the court may allow the action to be so maintained, may disallow and strike the class action allegations, or may order postponement of the determination pending discovery or such other preliminary procedures as appear to be appropriate and necessary in the circumstances. Whenever possible, where it is held that the determination should be postponed, a date will be fixed by the court for renewal of the motion.

(d) The foregoing provisions shall apply, with appropriate adaptations, to any counterclaim or crossclaim alleged to be brought for or against a class.

Rule 26.1 Discovery

(a) Interrogatories, requests for production and inspection and requests for admission under Fed. R. C.V.. P. 33, 34 and 36, answers, responses, and objections to interrogatories and to Rules 34 and 36 requests, notices of deposition and depositions under Fed. R. C.V.. P. 30 and 31, shall not be filed with the court. The party serving the discovery material or taking the deposition shall retain the original and be the custodian of it.

(b) Every motion pursuant to the Federal Rules of Civil Procedure governing discovery shall identify and set forth, verbatim, the relevant parts of the interrogatory, request, answer, response, objection, notice, subpoena, or depositions. Any party responding to the motion shall set forth, verbatim, in that party's memorandum any other part that the party

believes necessary to the court's consideration of the motion.

(c) If material in interrogatories, requests, answers, responses, or depositions is used as evidence in connection with any motion, the relevant parts shall be set forth, verbatim, in the moving papers or in responding memoranda. If it is used as evidence at trial, the party offering it shall read it into the record or, if directed to do so by the court, offer it as an exhibit.

(d) The court shall resolve any dispute that may arise about the accuracy of any quotation or discovery material used as provided in (b) and (c) and may require production of the original paper or transcript.

(e) The court, on its own motion, on motion by any party or on application by a non-party, may require the filing of the original of any discovery paper or deposition transcript. The parties may provide for such filing by stipulation.

(f) No motion or other application pursuant to the Federal Rules of Civil Procedure governing discovery or pursuant to this rule shall be made unless it contains a certification of counsel that the parties, after reasonable effort, are unable to resolve the dispute.

(g) A routine motion to compel answers to interrogatories or to compel compliance with a request for production under Fed. R. C.V.. P. 34, wherein it is averred that no response or objection has been timely served, need have no accompanying brief, and need have no copy of the interrogatories or Rule 34 request attached. The court may summarily grant or deny such motion without waiting for a response.

Rule 39.1 Summations by Attorney

(a) Unless the trial judge shall otherwise grant leave, only one attorney may sum up for any party.

(b) In actions which involve no third-party action, if evidence has been admitted on offer by both sides, plaintiff's attorney shall first sum up, stating explicitly upon what the plaintiff relies. Defendant's attorney shall next sum up as the nature of defendant's defense may require. Plaintiff's attorney may then reply, restricting himself or herself to rebuttal without assertion of any new ground on plaintiff's behalf.

In like actions, if no evidence has been admitted on offer of any defendant, the same order of summation shall prevail, except that plaintiff's attorney shall not reply.

(c) In actions which involve a third-party claim, if evidence has been admitted on offer by each party, the plaintiff's attorney shall first sum up as provided in section (b) of this rule.

Defendant's attorney shall next sum up for defendant as in section (b) of this rule and for defendant as third-party plaintiff shall state explicitly upon what defendant relies against the third party defendant. The attorney for the third-party defendant shall next sum up as the nature of the third-party defendant's defense may require. The attorney for third-party plaintiff may then reply in rebuttal and thereafter the attorney for the original plaintiff may reply in rebuttal only of original defendant.

(d) In multi-party actions and in actions which involve third-party actions, if one or more of the parties offers no evidence, the order of summation shall be determined by the trial judge.

(e) In actions involving more than one plaintiff, defendant or third-party defendant, if the attorneys are unable to agree, the trial judge shall determine the order of speaking, inter SE, of attorneys for plaintiffs, defendants and third-party defendants.

Rule 39.3 Records, Files and Exhibits

(a) No record or paper belonging to the files of the Court shall be taken from the office or custody of the Clerk except by the order of the court.

(b) The Clerk shall not be required to enter upon the records of this Court any written paper which does not set forth the number of the original suit.

(c) If the papers in a case are mislaid or lost and cannot be found when the case is called for trial, they may be supplied by copies.

(d) All exhibits received in evidence, or offered and rejected, upon the hearing of any cause or motion shall be delivered to the Clerk, who shall keep the same in custody, unless otherwise ordered by the Court, except that the Clerk may, without special order, permit an Official Court Reporter to retain custody pending preparation of the transcript.

(e) All exhibits referred to in section (d) shall be taken from the Clerk's custody by the party by whom they were produced or offered within sixty(60) days after the dismissal of the case by the parties or pursuant to Local Civil Rule 41.1 or the entry of final judgment by this Court, or, in the event of an appeal, within ninety (90) days after the receipt and filing of a mandate or other process or certificate showing the disposition of the case by the appellate court; otherwise, such exhibits shall be deemed abandoned and shall be destroyed or otherwise disposed of by the Clerk.

Rule 39.3.1 Video Tapes

(a) Six months after the time for appeal has expired following final judgment or six months after a cause is settled of record, each video tape filed of record shall be returned to the party who caused it to be filed.

(b) Nothing in this rule shall prevent this Court, for special reasons, from making such other order with respect to any video tapes as it may deem advisable.

Rule 40.1 Assignment of Court Business

(a) All civil litigation in this Court shall be divided into the following categories:

(1) Federal Question Cases:

A. Indemnity contract, marine contract and all other contracts.
B. FELA.
C. Jones Act -- Personal Injury.
D. Antitrust.
E. Patent.
F. Labor-Management Relations.
G. Civil Rights.
H. Habeas Corpus.
I. Securities Act(s) Cases.
J. All other federal question cases.

(2) Diversity Jurisdiction Cases:

A. Insurance Contract and other Contracts.
B. Airplane Personal Injury.
C. Assault, Defamation.
D. Marine Personal Injury.
E. Motor Vehicle Personal Injury.
F. Other Personal Injury.
G. Products Liability.
H. All Other Diversity Cases.

(b) Where it appears from the designation form filed by counsel, or from the complaint, petition, motion, answer, response or other pleading in a civil case, that a plaintiff or defendant resides in or that the accident, incident or transaction occurred in the counties of Berks, Lancaster, Lehigh or Northampton, said cases shall be assigned or reassigned for trial and pretrial procedures to a Judge stationed in Reading, Allentown or Easton, who shall be given appropriate credit by category for any case so assigned, reassigned or

transferred and, unless otherwise directed by the court, all trial and pretrial procedures with respect thereto shall be held in Reading, Allentown or Easton. All other cases, unless otherwise directed by the court, shall be tried in Philadelphia and as each case is filed, it shall be assigned to a judge, who shall thereafter have charge of the case for all purposes. The assignment shall take place in the following manner:

(1) There shall be a separate block of assignment cards for each category of civil cases. In each block of assignment cards for civil categories in the name of each active judge shall appear an equal number of times in a nonsequential manner except that the name of the Chief Judge shall appear one-half the number of times of each of the other active judges. The sequence of judges' names within each block shall be kept secret and no person shall directly or indirectly ascertain or divulge or attempt to ascertain or divulge the name of the judge to whom any case may be assigned before the assignment. The case number shall be stamped on the assignment card at the time of filing and assignment, and all assignment cards shall be preserved.

(2) The assignment clerk shall stamp on the complaint, petition or other initial paper of every case filed, and on the file jacket, the number of the case and the initials (or other designation) of the judge to whom it is assigned. The numbering and assignment of each case shall be completed before processing of the next case is begun.

(3) Related Cases. At the time of filing any civil action or proceeding, counsel shall indicate on the appropriate form whether the case is related to any other pending or within one (1) year previously terminated action of this court.

A. Civil cases are deemed related when a case filed relates to property included in another suit, or involves the same issue of fact or grows out of the same transaction as another suit, or involves the validity or infringement of a patent involved in another suit.

B. All habeas corpus petitions filed by the same individual shall be deemed related. All pro SE civil rights actions by the same individual shall be deemed related.

(c) Assignment of Related Cases.

(1) If the fact of relationship is indicated on the appropriate form at the time of filing, the assignment clerk shall assign the case to the same judge to whom the earlier numbered related case is assigned, and shall note such assignment by means of a separate block of cards on which the clerk shall place the case number and the category and the name of the judge. If the judge receiving the later case is of the opinion that the relationship does not exist, the judge shall refer the case to the assignment clerk for reassignment by random selection in the same manner as if it were a newly filed case.

(2) If the fact of relationship does not become known until after the case is assigned, the

judge receiving the later case may refer the case to the Chief Judge for reassignment to the judge to whom the earlier related case is assigned. If the Chief Judge determines that the cases are related, the Chief Judge shall transfer the later case to the judge to whom the earlier case is assigned; otherwise, the Chief Judge shall send the later case back to the judge to whom it was originally assigned.

(3) Whenever related cases require handling in such a way as to amount to substantially separate treatment of each case, and one or more of these related cases remain to be tried after disposition or trial of the other related case, the judge in question may call the matter to the attention of the Chief Judge and request leave to reassign a case of like category and approximately similar age. If the Chief Judge determines that such reassignment is desirable in promoting the substantially equal distribution of the work load, the Chief Judge shall reassign such equivalent case, either to the judge who originally transferred a later related case, or to a judge selected by lot (by reference to the assignment clerk), as the case may be.

(4) If a pending civil action or proceeding and a pending criminal action are related, the Chief Judge, at the request of any party or judge, may reassign the civil action or proceeding, in the interest of justice, to the judge to whom the criminal action is assigned.

Note: In addition to the requirements of Local Rule 3, and in order to conform with the request of the Judicial Conference of the United States, the Court, on December 19, 1974, effective January 1, 1975, ordered as follows:

1. The Clerk is authorized and directed to require a completed and executed AO Form JS44c, *Civil Cover Sheet, which shall accompany each civil case to be filed.

2. The Clerk is directed to reject the filing of a civil case which is not accompanied by a completed and executed Civil Cover Sheet.

3. At the time of filing a civil case, those persons who are in the Custody of the City, State or Federal Institutions, and persons filing civil cases pro SE, are exempt from the foregoing requirements.

*** Forms and instructions are available in the Clerk's Office.**

Rule 40.1.1 Emergency Judge

The judge who is designated as "Emergency Judge" shall have the following duties:

(1) Acting in lieu of the judge to whom a case is assigned, whenever the assigned judge is absent from the Court House and cannot feasibly return prior to the expiration of the time within which judicial action is required.

A. Where the Emergency Judge is required to hold an extensive hearing or otherwise perform a substantial amount of work, the Chief Judge may, at the Emergency Judge's request, assign the case to the Emergency Judge for all purposes, and permit him to transfer an equivalent case to the judge originally assigned.

B. Orders entered by the Emergency Judge may be modified, prospectively, by the assigned judge upon the assigned judge's return.

(2) Ceremonial Functions.

Rule 40.3 Calendar Control; Operating Procedures

Calendar control and other matters affecting the conduct of the business of the court shall be governed by written statements of policy on file in the Office of the Clerk, as such policies may from time to time be adopted or modified by the court in the implementation of these Rules (but not in derogation thereof), and also in the implementation of such operating agreements as may be in effect from time to time between this court and certain other courts concerning conflicting engagements of counsel, recognition of busy-slips, and the like.

Rule 40.3.1 Calendar Review

The Chief Judge (or, in case of the absence or disability of the Chief Judge, the next most senior active judge) shall serve as Calendar Judge, and as such shall have the following duties and responsibilities:

(1) The duties and responsibilities set forth in Rule 40.1 of these Rules.

(2) The Chief Judge may recommend to the Board of Judges the reassignment of substantial numbers of cases whenever a judge falls appreciably farther behind in the judge's trial work than the other members of the Court, and in the interests of justice to litigants and fairness to the Court as a whole, such reassignments are deemed appropriate. No such reassignment of substantial numbers of cases shall take place without the approval of a majority of the Board of Judges.

(3) Where particular counsel or law firms are unable to keep reasonably current with their trial assignments, the Chief Judge may confer with counsel in an attempt to rectify the situation through voluntary action on the part of counsel. In extreme cases, the Chief Judge may recommend to the Board of Judges the adoption of a policy requiring reassignment of cases in excess of a certain number per lawyer beyond a certain age; or for the non-recognition of busy slips for cases in excess of a certain age, etc. No such mandatory reassignment or change in policy shall be effective unless approved by a majority vote of the Board of Judges.

Rule 41.1 Dismissal and Abandonment of Actions

(a) Whenever in any civil action the Clerk shall ascertain that no proceeding has been docketed therein for a period of more than one year immediately preceding such ascertainment, the clerk shall send notice to counsel of record, or, if none, to the parties, that, unless the court, upon written application filed within thirty (30) days from the date of such notice and upon good cause shown shall otherwise order, the action shall be dismissed. In the absence of such application to or order by the court, the Clerk shall, without special order, enter upon the record "dismissed, without prejudice under Rule 41.1," and shall, upon application by defendant, tax the costs against the plaintiffs.

(b) Whenever in any civil action counsel shall notify the Clerk or the judge to whom the action is assigned that the issues between the parties have been settled, the Clerk shall, upon order of the judge to whom the case is assigned, enter an order dismissing the action with prejudice, without costs, pursuant to the agreement of counsel. Any such order of dismissal may be vacated, modified, or stricken from the record, for cause shown, upon the application of any party served within ninety (90) days of the entry of such order of dismissal.

Rule 41.2 Minors, Incapacitated Persons, and Decedents' Estates.

(a) No claim of a minor or incapacitated person or of a decedent's estate in which a minor or incapacitated person has an interest shall be compromised, settled, or dismissed unless approved by the court.

(b) No distribution of proceeds shall be made out of any fund obtained for a minor, incapacitated person or such decedent's estate as a result of a compromise, settlement, dismissal or judgment unless approved by the court.

(c) No counsel fee, costs or expenses shall be paid out of any fund obtained for a minor, incapacitated person or such decedent's estate as a result of a compromise, settlement, dismissal or judgment unless approved by the court.

Rule 43.1 Conduct of Trials

(a) On the trial of an issue of fact, only one attorney for any party shall examine or cross-examine any witness, unless otherwise permitted by the Court.

(b) It is the right and duty of attorneys in a case to be present in the courtroom at all times the Court may be in session in that case. Any attorney who voluntarily is absent during such times or during the deliberation of the jury, waives the right, and that of the client, to be present and consents to such proceedings as may occur in the courtroom during such absence.

Rule 43.1.1 Attachments for Witnesses

No action, when called for trial, shall be passed or delayed on account of an attachment for witnesses unless application therefore shall have been made within an hour after the opening of court on the day on which the case is called for trial, or it is shown that the witness or witnesses were in attendance at the time and departed without leave.

Rule 45.1 Subpoenas for Trial

No trial shall be continued on account of the absence of any witness unless a subpoena for the attendance of such witness has been served at least five (5) days prior to the date set for trial. This rule shall not dispense with the obligation to take the deposition of any witness where the party requiring his/her attendance, or counsel, knows that such witness intends to be absent from the district at the time of the trial, or where such witness is not subject to subpoena within this jurisdiction.

Rule 45.1.1 Appearance of Judicial Officer of this Court as Character Witness

(a) No subpoena to compel a judge of this court, U.S. Magistrate or Bankruptcy Judge to testify as a character witness shall be issued served, or enforced unless the issuance of the subpoena shall have been specially allowed pursuant to this Rule.

(b) Petitions for allowance of a subpoena shall be filed in the Office of the Clerk of this court, shall be verified and shall set forth:

1) The caption and criminal docket number of the proceeding in which the witness is to

appear together with a brief description of the nature of the proceedings;

(2) the name and judicial office of the witness;

(3) facts demonstrating that the character testimony to be given by the witness will not be merely cumulative and that the rights of petitioner shall be unduly prejudiced by the application of the general order prohibiting the appearance of judicial officer of this court as character witness in this court.

(4) a copy of the desired form of subpoena; and

(5) a certificate of service showing service of the petition upon the witness and upon all parties to the proceeding.

(c) Within seven days after service of the petition, the witness or any party to the proceedings below may file in the office of the clerk of this court a verified answer setting forth, if desired, a counter statement of the facts and any arguments in support of or in opposition to the petition.

(d) Petitions for allowance of a subpoena acted upon by a committee consisting of the Chief Judge of this court and two other judges of this court designated by the Chief Judge. The Committee may act upon petitions under this order with or without a hearing.

(e) No petition for allowance of a subpoena shall be considered unless it has been filed at least fifteen days prior to the date on which the case in which the witness is to appear has been listed for trial.

(f) No judge of this court, U.S. Magistrate or Bankruptcy Judge shall testify as a character witness except pursuant to a subpoena specially allowed pursuant to this Rule.

Rule 48.1 Jury

(a) Challenge to Array. Every challenge to the array of jurors shall be made at least ten (10) days before the first day of the trial period for which the jurors have been summoned.

(b) Number of Jurors, Civil Trials.

(1) Except as provided in subparagraph (2) below, juries in civil cases shall consist, initially, of eight members. Trials in such cases shall continue so long as at least six jurors remain in service. If the number of jurors falls below six, a mistrial shall be declared upon prompt application therefor by any party then on the record, unless the parties stipulate that the verdict may be taken from the number of jurors then remaining.

(2) Whenever it appears likely that the trial will be unusually protracted, or whenever the court in its discretion determines that the interests of justice so require, the jury may be enlarged to include as many as twelve (12) members, and any number of alternates may be used, as the court may determine; but not more than twelve (12) persons shall participate in the deliberations of the jury, nor may any verdict be rendered by a jury consisting of more than twelve (12) persons, or fewer than six (6) persons.

Rule 53.1 Marshal's Sales

(a) In cases wherein the proceeds of any Marshal's sale shall be before the Court for distribution and the claims upon such proceeds shall be referred to a Master, the procedure prescribed by FED.R.CIV.P. 53 shall be followed.

(b) Before the acknowledgment of any deed executed by the Marshal for any interest in real estate sold by the Marshal by virtue of any process from this court shall be taken, the process under which such sale shall have been made shall be duly returned and filed with the Clerk.

(c) Notice of any sale by the Marshal which requires confirmation by the court shall contain, as well, notice of the time of application for confirmation. A motion for confirmation of such sale and acknowledgment of such deeds may be heard on any motion day at least ten (10) days after the filing of the return of process. Notice of sale, including the notice of time and place of application for confirmation, shall be given to all interested parties in advance of the sale.

(d) Whenever any such sale shall be postponed by the Marshal or by order of court, notice of the postponed time and place of the sale and of the postponed time and place of application for confirmation shall, if then known, be given by public announcement at the time and place originally fixed for such sale and, if not known, shall thereafter be given to all interested parties and, in either event, shall be published at least once in the official legal publication of the county in which the sale is to be held at least (3) days prior to the date of the proposed sale.

Rule 53.2 - <u>ARBITRATION</u> - <u>THE SPEEDY CIVIL TRIAL</u>

1. Certification of Arbitrators.

A. The Chief Judge shall certify as many arbitrators as the Chief Judge determines to be necessary under this rule.

B. Any individual may be certified to serve as an arbitrator if: (1) he or she has been for at least five years a member of the bar of the highest court of a state or the District of Columbia, (2) he or she is admitted to practice before this court, and (3) he or she is determined by the Chief Judge to be competent to perform the duties of an arbitrator.

C. Any member of the bar possessing the qualifications set forth in subsection B., desiring to become an arbitrator, shall complete the application form obtainable in the office of the Clerk and when completed shall file it with the Clerk of Court who shall forward it to the Chief Judge of the Court for the Chief Judge's determination as to whether the applicant should be certified.

D. Each individual certified as an arbitrator shall take the oath or affirmation prescribed by Title 28 U.S.C. 453 before serving as an arbitrator.

E. A list of all persons certified as arbitrators shall be maintained in the office of the Clerk.

F. Any member of the Bar certified as an arbitrator may be removed from the list of certified arbitrators for cause by a majority of the judges of this court.

2. Compensation and Expenses of Arbitrators.

The arbitrators shall be compensated $100.00 each for services in each case assigned for arbitration. Whenever the parties agree to have the arbitration conducted before a single arbitrator, the single arbitrator shall be compensated $100.00 for services. In the event that the arbitration hearing is protracted, the court will entertain a petition for additional compensation. The fees shall be paid by or pursuant to the order of the director of the Administrative Office of the United States Courts.

Arbitrators shall not be reimbursed for actual expenses incurred by them in the performance of their duties under this rule.

3. Cases Eligible for Compulsory Arbitration.

A. The Clerk of Court shall, as to all cases filed on or after September 13, 1999 designate and process for compulsory arbitration all civil cases (including adversary proceedings in bankruptcy, excluding, however, (1) social security cases, (2) cases in which a prisoner is a party, (3) cases alleging a violation of a right secured by the U.S. Constitution, and (4) actions in which jurisdiction is based in whole or in part on 28 U.S.C. 1343) wherein money damages only are being sought in an amount not in excess of $150,000.00 exclusive of interest and costs. All cases filed prior to September 13, 1999 which were designated by Clerk of Court for compulsory arbitration shall continue to be processed pursuant to this Rule.

B. The parties may by written stipulation agree that the Clerk of Court shall designate and process for arbitration pursuant to this rule any civil case eligible for arbitration pursuant to Section 3.A. of this local civil rule (including adversary proceedings in bankruptcy) wherein money damages only are being sought in an amount in excess of $150,000.00, exclusive of interest and costs.

C. For purposes of this rule only, damages shall be presumed to be not in excess of $150,000.00, exclusive of interest and costs, unless:

(1) Counsel for plaintiff, at the time of filing the complaint, or in the event of the removal of a case from state court or transfer of a case from another district to this court, within ten (10) days of the docketing of the case in this district filed a certification that the damages sought exceed $150,000.00, exclusive of interest and costs; or

(2) Counsel for a defendant, at the time of filing a counterclaim or cross-claim filed a certification with the court that the damages sought by the counterclaim or cross claim exceed $150,000.00, exclusive of interest and costs.

(3) The judge to whom the case has been assigned may "sua sponte" or upon motion filed by a party prior to the appointment of the arbitrators to hear the case pursuant to section 4(C), order the case exempted from arbitration upon a finding that the objectives of an arbitration trial (i.e., providing litigants with a speedier and less expensive alternative to the traditional courtroom trial) would not be realized because (a) the case involves complex legal issues, (b) legal issues predominate over factual issues, or (c) for other good cause.

4. Scheduling Arbitration Trial.

A. After an answer is filed in a case determined eligible for arbitration, the arbitration clerk shall send a notice to counsel setting forth the date and time for the arbitration trial. The date of the arbitration trial set forth in the notice shall be a date about one hundred twenty (120) days (5 months for cases filed prior to May 18, 1989) from the date the answer was filed. The notice shall also advise counsel that they may agree to an earlier date for the arbitration trial provided the arbitration clerk is notified within thirty (30) days of the date of the notice. The notice shall also advise counsel that they have ninety (90) days (120 days for cases filed prior to May 18, 1989) from the date the answer was filed to complete discovery unless the judge to whom the case has been assigned orders a shorter or longer period for discovery. In the event a third party has been brought into the action, this notice shall not be sent until an answer has been filed by the third party.

B. The arbitration trial shall be held before a panel of three arbitrators, one of whom shall be designated as chairperson of the panel, unless the parties agree to have the hearing before a single arbitrator. The arbitration panel shall be chosen through a random selection process by the clerk of the court from among the lawyers who have been certified

as arbitrators. The arbitration clerk shall endeavor to assure insofar as reasonably practicable that each panel of three arbitrators shall consist of one arbitrator whose practice is primarily representing plaintiffs, one whose practice is primarily representing defendants, and a third panel member whose practice does not fit either category. The arbitration panel shall be scheduled to hear not more than four (4) cases on a date or dates several months in advance.

C. The judge to whom the case has been assigned shall at least thirty (30) days prior to the date scheduled for the arbitration trial sign an order setting forth the date and time of the arbitration trial and the names of the arbitrators designated to hear the case. In the event that a party has filed a motion to dismiss the complaint, a motion for summary judgment, a motion for judgment on the pleadings, or a motion to join necessary parties, the judge shall not sign the order until the court has ruled on the motion, but the filing of such a motion on or after the date of said order shall not stay the arbitration unless the judge so orders.

D. Upon entry of the order designating the arbitrators, the arbitration clerk shall send to each arbitrator a copy of all the pleadings, including the order designating the arbitrators, and the guidelines for arbitrators.

E. Persons selected to be arbitrators shall be disqualified for bias or prejudice as provided in Title 28, U.S.C. 144, and shall disqualify themselves in any action in which they would be required under Title 28, U.S.C. 455 to disqualify themselves if they were a justice, judge or magistrate.

F. The arbitrators designated to hear the case shall not discuss settlement with the parties or their counsel, or participate in any settlement discussions concerning the case which has been assigned to them.

5. The Arbitration Trial.

A. The trial before the arbitrators shall take place on the date and at the time set forth in the order of the Court. The trial shall take place in the United States Courthouse in a room assigned by the arbitration clerk. The arbitrators are authorized to change the date and time of the trial provided the trial is commenced within thirty (30) days of the trial date set forth in the Court's order. Any continuance beyond this thirty (30) day period must be approved by the judge to whom the case has been assigned. The arbitration clerk must be notified immediately of any continuance.

B. Counsel for the parties shall report settlement of the case to the arbitration clerk and all members of the arbitration panel assigned to the case.

C. The trial before the arbitrators may proceed in the absence of any party who, after notice, fails to be present. In the event, however, that a party fails to participate in the trial

in a meaningful manner, the Court may impose appropriate sanctions, including, but not limited to the striking of any demand for a trial de novo filed by that party.

D. Rule 45 of the Federal Rules of Civil Procedure shall apply to subpoenas for attendance of witnesses and the production of documentary evidence at the trial before the arbitrators. Testimony at the trial shall be under oath or affirmation.

E. The Federal Rules of Evidence shall be used as guides to the admissibility of evidence. Copies or photographs of all exhibits, except exhibits intended solely for impeachment, must be marked for identification and delivered to adverse parties at least ten (10) days prior to the trial and the arbitrators shall receive such exhibits into evidence without formal proof unless counsel has been notified at least five (5) days prior to the trial that the adverse party intends to raise an issue concerning the authenticity of the exhibit. The arbitrators may refuse to receive into evidence any exhibit, a copy or photograph of which has not been delivered prior to trial to the adverse party, as provided herein.

F. A party may have a recording and transcript made of the arbitration hearing at the party's expense.

6. Arbitration Award and Judgment.

The arbitration award shall be filed with the court promptly after the trial is concluded and shall be entered as the judgment of the court after the thirty (30) day time period for requesting a trial de novo has expired, unless a party has demanded a trial de novo, as hereinafter provided. The judgment so entered shall be subject to the same provisions of law, and shall have the same force and effect as a judgment of the court in a civil action, except that it shall not be the subject of appeal. In a case involving multiple claims and parties, any segregable part of an arbitration award concerning which a trial de novo has not been demanded by the aggrieved party before the expiration of the thirty (30) day time period provided for filing a demand for trial de novo shall become part of the final judgment with the same force and effect as a judgment of the court in a civil action, except that it shall not be the subject of appeal.

7. Trial De Novo.

A. Within thirty (30) days after the arbitration award is entered on the docket, any party may demand a trial de novo in the district court. Written notification of such a demand shall be served by the moving party upon all counsel of record or other parties. Withdrawal of a demand for a trial de novo shall not reinstate the arbitrators' award and the case shall proceed as if it had not been arbitrated.

B. Upon demand for a trial de novo and the payment to the Clerk required by paragraph 7 (E) of this Rule, the action shall be placed on the trial calendar of the court and treated for all purposes as if it had not been referred to arbitration. In the event it appears to the judge to whom the case was assigned that the case will not be reached for trial de novo within ninety (90) days of the filing of the demand for trial de novo, the judge shall request the Chief Judge to reassign the case to a judge whose trial calendar will make it possible for the case to be tried de novo within ninety (90) days of the filing of the demand for trial de novo. Any right of trial by jury which a party would otherwise have shall be preserved inviolate.

C. At the trial de novo, the court shall not admit evidence that there had been an arbitration trial, the nature or amount of the award, or any other matter concerning the conduct of the arbitration proceeding unless the evidence would otherwise be admissible in the Court under the Federal Rules of Evidence.

D. To make certain that the arbitrators' award is not considered by the Court or jury either before, during or after the trial de novo, the arbitration clerk shall, upon the filing of the arbitration award, enter onto the docket only the date and "arbitration award filed" and nothing more, and shall retain the arbitrators' award in a separate file in the Clerk's office. In the event no demand for trial de novo is filed within the designated time period, the arbitration clerk shall enter the award on the docket and place it in the case file.

E. Upon making a demand for trial de novo, the moving party shall, unless permitted to proceed in forma pauperis, deposit with the Clerk of Court a sum equal to the arbitration fees of $100.00 for each arbitrator as provided in Section 2. The sum so deposited shall be returned to the party demanding a trial de novo in the event that party obtains a final judgment, exclusive of interest and costs, more favorable than the arbitration award. In the event the party demanding a trial de novo does not obtain a judgment more favorable than the arbitration award, the sum so deposited shall be paid to the Treasury of the United States.

Rule 53.2.1 Court-Annexed Mediation (Early Settlement Conference)

Purpose--The court adopts this Rule for the purpose of determining whether a program of court-annexed mediation will provide litigants with a speedier and less expensive alternative to the burdens of discovery and the traditional courtroom trial. Those cases that have been assigned an odd number by the Clerk of Court will be placed in the program. The program will be evaluated periodically to determine whether it should be continued.

1. Certification of Mediators

(a) The Chief Judge shall certify as many mediators as the Chief Judge determines to be

necessary under this rule.

(b) An individual may be certified to serve as a mediator if: (1) he or she has been for at least 15 years a member of the bar of the highest court of a state or the District of Columbia; (2) he or she is admitted to practice before this court; and (3) the Chief Judge determines that he or she is competent to perform the duties of a mediator.

(c) Anyone having the qualifications set forth in subsection (b) and desiring to become a mediator shall complete the application form obtainable from the Clerk of Court and file it with the Clerk of Court, who will forward it to the Chief Judge for his or her determination whether to certify the applicant.

(d) Each individual certified as a mediator shall take the oath or affirmation prescribed by 28 U.S.C. 453 before serving as a mediator.

(e) The Clerk of Court shall maintain a list of all persons certified as mediators.

(f) The court encourages everyone certified as a mediator to participate in such programs as the court may sponsor for the training of mediators.

(g) A majority of the judges of this court may remove anyone from the list of certified mediators for cause.

2. Compensation and Expenses of Mediators

Mediators shall receive no compensation for services and shall not be reimbursed for expenses. The services and expenses of a mediator shall be considered a pro bono service to the court in the interest of providing litigants with a speedier and less expensive alternative to the burdens of discovery and a courtroom trial.

3. Cases Eligible for Mediation

The Clerk of Court shall designate and process for mediation all odd-numbered civil cases except (a) social security cases, (b) cases in which a prisoner is a party, (c) cases eligible for arbitration pursuant to Local Civil Rule 53.2, (d) asbestos cases, (e) cases appealed, withdrawn or transferred from a bankruptcy judge, (f) cases on the Special Management Track provided for in the court's Civil Justice Expense and Delay Reduction Plan and (g) any case that a judge determines, *sua sponte* or on application by a party or the mediator, is not suitable for mediation or should be treated by some other means of alternative dispute resolution.

4. Reference to Mediation

(a) After the first appearance for a defendant is made in a case designated for mediation, the mediation clerk shall promptly send a notice to each party (which, as used in this Rule 15, means the party's attorney of record or the party itself so long as there is no attorney of record for that party) that the case has been referred to mediation, fixing a date, time and place for the initial mediation conference and giving the name and telephone number of the mediator. The date of the initial conference shall be within 60 days after the date of the first appearance for a defendant. The initial conference and any later conference shall be held in a courthouse, a courtroom in the United States Customs House or such other place designated by the mediation clerk.

(b) The mediation shall be conducted by a mediator selected at random by the Clerk of Court from the list of certified mediators.

(c) Upon mailing the notice pursuant to 4(a), the mediation clerk shall send to the mediator copies of each pleading, of any motion under Rule 12 of the Federal Rules of Civil Procedure and of each order entered in the case.

(d) If postponing the initial mediation conference for approximately 30 days will enable the parties to be better prepared to discuss settlement, the mediation clerk is authorized to do so if, no later than 14 days before the date fixed for the conference, each party delivers or telecopies to the mediation clerk, with copies to the mediator and all other parties, a certification as required by this rule. The certification shall state that (1) the parties have discussed mediation and agree that postponement of the initial conference for approximately 30 days will make it possible for them to be better prepared to discuss settlement, (2) the party will participate in exchanging information among the parties and taking other steps necessary to prepare for the postponed conference and (3) the party is delivering or telecopying its certificate to the mediation clerk within the time required and is sending copies to the mediator and the other parties.

(e) Persons acting as mediators under this rule are assisting the court in performing its judicial function. They shall be disqualified for bias or prejudice as provided by 28 U.S.C. 144 and shall disqualify themselves in any action in which they would be required under 28 U.S.C. 455 to dis-qualify themselves if they were a justice, judge or magistrate judge.

5. The Mediation Process

(a) Not later than three days before the initial conference, each party shall deliver or telecopy to the mediator and to each other party a mediation conference memorandum no

longer than two pages summarizing the nature of the case and the party's positions on (1) the major factual and legal issues affecting liability, (2) the relief sought by each party and (3) settlement. The memoranda required by this subparagraph 5(a) are solely for use in the mediation process and shall not be filed with the Clerk of Court.

(b) Before the end of the initial conference, the mediator may, with the consent of the parties, hold the mediation open. If it is held open, the mediator may schedule one or more additional conferences through the mediation clerk, provide for reports from the parties in writing or by telephone and provide for communications between or among the parties. The mediator may not hold the mediation open for more than 60 days from the date of the initial conference.

(c) Counsel primarily responsible for the case and each unrepresented party shall attend the initial conference and participate in any continuation of the mediation process. At the initial conference, the parties shall be prepared to discuss: (1) all liability issues; (2) all damages and other relief issues; and (3) the positions of the parties on settlement. Counsel shall make arrangements for the client or a representative of the client with decision-making authority to be available in person or by telephone at the initial and any later conference for the purpose of discussing settlement. Willful failure of counsel or an unrepresented party to attend any mediation conference or willful failure to have the client or client's representative available as required by this rule shall be reported to the mediation clerk by the mediator and may result in the imposition of appropriate sanctions by the court.

(d) If the time fixed for any conference is not convenient, the mediator is authorized to change it, provided the conference takes place within 15 days of the date fixed and the mediation clerk gives notice of the change at the request of the mediator. Any postponement to more than 15 days after that date must be submitted to the mediation clerk for approval by the judge to whom the case is assigned.

(e) Except as otherwise provided in this paragraph 5 and except as necessary to the reporting of, or the processing of complaints about, unlawful or unethical conduct, nothing communicated during the mediation process (including any oral or written statement made by a party, attorney or other participant and any proposed settlement figure stated by the mediator or on behalf of any party) shall be placed in evidence, made known to the trial court or jury, or construed for any purpose as an admission. No party shall be bound by anything done or said during the mediation process except to enforce a settlement agreement or any other agreement achieved in that process.

(f) Whenever the mediator determines that no settlement is likely to result from the mediation process, the mediator shall terminate the process and promptly thereafter send a report to the mediation clerk stating that mediation has taken place but that no settlement has been reached. In the event, however, that a settlement is achieved during the mediation

process, the mediator shall send a report to the mediation clerk stating that a settlement was achieved.

(g) No one shall have a recording or transcript made of anything that occurs during the mediation process.

6. Relationship to Other Procedures

This rule shall not be construed as modifying the provisions of Federal Rule of Civil Procedure 16, or Local Civil Rule 16.1 or of any order or direction by the court, nor shall it be construed as precluding the use of any kind of mediation outside of the mediation process established by this rule or the use of any other means of alternative dispute resolution. In the event that the arbitration hearing is protracted, the court will entertain a petition for additional compensation. The fees shall be paid by or pursuant to the order of the director of the Administrative Office of the United States Courts.

Rule 54.1 Costs: Security for, Taxation, Payment

(a) In every action in which the plaintiff was not a resident of the Eastern District of Pennsylvania at the time suit was brought, or having been so afterwards removed from this District, an order for security for costs may be entered, upon application therefor within a reasonable time and upon notice. In default of the entry of such security at the time fixed by the court, judgment of dismissal shall be entered on motion.

(b) All bills of costs requiring taxation shall be taxed by the Clerk, subject to an appeal to the court. Any party appellant shall, within five (5) days after notice of such taxation, file a written specification of the items objected to and the grounds of objection. A copy of the specifications of objections shall be served on the opposing party or his attorney within five (5) days. An appeal shall be dismissed for non-compliance with the appeal requirements.

(c) Any party requesting taxation of costs by the Clerk shall give the Clerk and all other parties five (5) days' written notice of such request. The Clerk shall fix the time for taxation and notify the parties of their counsel.

(d) The Clerk shall not enter an order of dismissal or of satisfaction of judgment until the Clerk's and Marshal's costs have been paid. The Clerk, in cases settled by parties without payment of costs, may have an order on one or more of the parties to pay the costs. Upon failure to pay the costs within (10) days, or at such time as the court may otherwise direct, the Clerk may issue execution for recovery of costs.

Rule 56.1 Judgments pursuant to a Warrant of Attorney

No judgment shall be entered on any warrant of attorney more than ten (10) years old but less than twenty (20) years old without leave of court. If the warrant is more than ten (10) but less than twenty (20) years old, the motion for leave shall be accompanied by an affidavit of one having knowledge of the facts, stating the due execution of the warrant, nonpayment and that the obligor is alive. If the warrant is twenty (20) or more years old, a petition shall be filed for a rule to show cause why leave should not be granted and service of the petition and rule shall be made on the obligor, if he is within this district.

Rule 67.1 Bail, Sureties and Security

(a) No attorney or officer of this Court shall be acceptable as surety, bail or security of any kind in any proceeding in this court.

(b) Exceptions to bail or surety shall be in writing, filed with the Clerk and notice thereof in writing shall be given by the expectant to the opposing party or his attorney and to the Marshal within forth-eight (48) hours from the filing thereof.

Rule 67.2 Deposits in Court

(a) Payments into Court shall unless otherwise determined by the Clerk, be in cash, money order, certified or cashier's check.

(b) When funds on deposit with the Clerk are disbursed, payment shall be made by clerk payable to the party entitled thereto and the resident attorney of record, if any, representing such party and the check shall be delivered to such attorney unless otherwise ordered by the court.

Rule 72.1 United States Magistrate Judges

I. Authority of United States Magistrates Judges in Civil Matters.

(a) Duties under 28 U.S.C. 636.

Each United States magistrate judge of this district is authorized to exercise the powers and perform the duties prescribed by 28 U.S.C. 636(a).

(b) Prisoner Cases under 28 U.S.C. 2254 and 2255.

A magistrate judge may perform any or all of the duties imposed upon a judge by the rules governing proceedings in the United States District Courts under 28 U.S.C. 2254 and 2255, except signing CJA vouchers for compensation to be paid unless representation is furnished exclusively before a magistrate judge. In so doing, a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and shall submit to a judge a report containing proposed findings of fact and recommendation for disposition of the petition by the judge. Any order disposing of the petition may be made only by a judge.

(c) Prisoner Cases under 42 U.S.C. 1983.

A magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and shall submit to a judge a report containing proposed findings of fact and recommendations for the disposition of complaints filed by prisoners challenging the conditions of their confinement.

(d) Special Master References.

A magistrate judge may be designated by a judge to serve as a special master in appropriate civil cases in accordance with U.S.C. 636(b)(2) and Fed. R. Civ. P. 53. Upon the consent of the parties, a magistrate judge may be designated by a judge to serve as a special master in any civil case.

(e) Other Duties.

A magistrate judge is also authorized to

(1) Exercise general supervision of civil calendars, conduct calendar and status calls and determine motions to expedite or postpone the trial of cases for the judges;

(2) Conduct pretrial conferences, settlement conferences, omnibus hearings, and related pretrial proceedings in civil cases;

(3) Conduct voir dire and select petit juries;

(4) Accept petit jury verdicts in civil cases in the absence of a judge;

(5) Issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or other orders necessary to obtain the presence of parties, witnesses or evidence needed for Court proceedings;

(6) Order the exoneration or forfeiture of bonds;

(7) Conduct proceedings for the collection of civil penalties of not more than $200 assessed under the Federal Boat Safety Act of 1971, in accordance with 46 U.S.C. 4311(d) and 12309(c);

(8) Conduct examinations of judgment debtors in accordance with Fed. R. Civ. P. 69;

(9) Conduct proceedings for initial commitment of narcotics addicts under Title III of the Narcotic Addict Rehabilitation Act, with the final determination and order of commitment to be made by the district judge assigned to the case; and

(10) Perform any additional duty that is not inconsistent with the Constitution and laws of the United States.

II. Assignment of Matters to Magistrate Judges in Civil Matters.

(a) In General. In accordance with procedures adopted by the Board of Judges, each district judge shall have an assigned magistrate judge. The assignment list shall be posted in the office of the Clerk. Matters shall be referred to magistrate judges at the direction of the district judge to whom the case is assigned.

III. Procedures before the Magistrate Judge in Civil Matters.

(a) In General.

In performing duties for the Court, a magistrate judge shall conform to all applicable provisions of federal statutes and rules, to the general procedural rules of this Court, and to the requirements specified in any order of reference from a judge.

(b) Special Provisions for the Disposition of Civil Cases by a Magistrate Judge on Consent of the Parties --28 U.S. C. 636(c).

(1) Notice. The Clerk of Court shall notify the parties in all civil cases that they may consent to have a magistrate judge conduct any or all proceedings in the case and order the entry of a final judgment. Such notice shall be handed or mailed to the plaintiff or the plaintiff's representative at the time an action is filed and to other parties as attachments to copies of the complaint and summons, when served. Additional notices may be furnished to the parties at later stages of the proceedings, and may be included with pretrial notices and instructions.

(2) Execution of Consent. The plaintiff shall be responsible for securing the execution of consent forms by the parties and for filing such forms with the Clerk of Court. Unless

otherwise ordered by the district judge to whom the case is assigned, consent forms may be filed at any time prior to trial. No consent form will be made available nor will its contents be made known to any judge or magistrate judge, unless all parties have consented to the reference to a magistrate judge.

(3) Reference. After consent forms have been executed and filed, the clerk shall transmit them to the judge to whom the case has been assigned for approval and possible referral of the case to a magistrate judge.

IV. Reconsideration and Appeal in Civil Matters.

(a) Reconsideration of Non-Dispositive Matters - 28 U.S.C. 636(b)(1)(A).

Any party may object to a magistrate judge's order determining a motion or matter under 28 U.S.C. 636(b)(1)(A), within ten (10) days after issuance of the magistrate judge's order, unless a different time is prescribed by the magistrate judge or a judge. Such party shall file with the Clerk of Court, and serve on the magistrate judge and all parties, a written statement of objections which shall specifically designate the order, or part thereof, subject to the objections and the basis for such objection.

(b) Review of Case-Dispositive Motions and Prisoner Litigation -- 28 U.S.C. 636(b)(1)(B).

Any party may object to a magistrate judge's proposed findings, recommendations or report under 28 U.S.C. 636(b)(1)(B), and subsections 1(c) and (d) of this Rule within ten (10) days after being served with a copy thereof. Such party shall file with the Clerk of Court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. Any party may respond to another party's objections within ten (10) days after being served with a copy thereof.

Rule 83.3 Broadcasting, Filming and Recording in Courtrooms and Appurtenant Areas

(a) No Judicial proceedings may be broadcast by radio or television, or filmed by still or motion-picture camera, except that investitive, naturalization or other ceremonial proceedings may be broadcast, or filmed, subject to the supervision of the Clerk, and pursuant to regulations formulated by the Clerk, with the approval of the Chief Judge, which regulations are calculated to insure that the solemnity of such proceedings is not jeopardized.

(b) No cameras, broadcasting mechanisms, or related apparatus may be brought into, or retained or operated within, any district court courtroom or any hall on the same floor as

such courtroom, except when no non-ceremonial judicial proceedings are in session on such floor of the courthouse. The bringing of cameras, broadcasting mechanisms, or related apparatus into any vacant courtroom or its appurtenant hallways, and the retention or operation of such apparatus therein, are subject to the supervision of the Clerk, pursuant to regulations formulated by the Clerk with approval of the Chief Judge.

(c) No person not employed in such office may bring any cameras, broadcasting mechanisms, or related apparatus into the Clerk's office, the Marshal's office, the Probation office, the Office of Pre-Trial Services, or any other office which is an administrative component of the district court, except as permitted and supervised by the chief of that office or an authorized designee thereof.

(d) No cameras, broadcasting mechanisms, or related apparatus may be operated within 50 feet of the elevator bay on the ground floor of the Courthouse.

Rule 83.5 Admission to Practice

(a) Any attorney who is a member in good standing of the bar of the Supreme Court of Pennsylvania may, by written, signed petition and upon motion of a member of the bar of this Court, make application to be admitted generally as an attorney of this Court.

(b) The petition for admission shall aver, under oath, all pertinent facts. The Court may admit the petitioner upon such petition and motion or may require that the petitioner offer satisfactory evidence of present good moral and professional character.

(c) Upon admission the petitioner shall take and subscribe to the following oath or affirmation:

"I do swear (or affirm) that I will demean myself as an attorney of this Court uprightly and accordingly to law and that I will support and defend the Constitution of the United States."

(d) Upon appropriate motion and the taking of the oath prescribed in subparagraph (c), any attorney admitted to the limited practice provided by Subchapter C of the Pennsylvania Bar Admission Rules may be admitted to a similar limited practice before this court as to all causes in which the defender association or legal services program with which that attorney is affiliated acts as counsel.

1. The right to practice under this rule shall terminate upon termination of admission to practice under Subchapter C of the Pennsylvania Bar Admission Rules.

2. The roll of attorneys maintained by the Clerk of this Court shall be specially noted to

show those admitted under the provisions of this subparagraph.

(e) Any attorney who is a member in good standing of the bar of the Supreme Court of the United States or of the bar of the United States Court of Appeals for the Third Circuit may, without being admitted generally as an attorney of this Court, act as an attorney in this Court on behalf of the United States Government or any of its departments or agencies.

(f) An attorney applying for first-time admission to the bar of this court must simultaneously inform the court of any previous public discipline by any other court of the United States or the District of Columbia, or by a court of any state, territory, commonwealth or possession of the United States and of any conviction for a "serious crime" as defined in these rules.

Petitions for first-time admission filed by an attorney who has previously been publicly disciplined by another court or convicted of a serious crime shall be filed with the Chief Judge of this court. Upon receipt of the petition, the Chief Judge shall assign the matter for prompt hearing before one or more judges of this court appointed by the Chief Judge. The judge or judges assigned to the matter shall thereafter schedule a hearing at which the petitioner shall have the burden of demonstrating, by clear and convincing evidence, that the petitioner has the moral qualifications, competency and learning in the law required for admission to practice law before this court, and that the petitioner's admission shall not be detrimental to the integrity and standing of the bar or to the administration of justice, or subversive of the public interest.

In all the above-described proceedings, the attorney applying for first-time admission shall have the right to counsel. All such petitions shall be accompanied by an advance cost deposit in an amount to be set by the court, from time to time, to cover anticipated costs of the proceeding.

(g) The judge or judges to whom a matter is assigned under Local Rule 83.5(f) shall make a report and recommendation to the court after a hearing. The court shall decide the matter.

Rule 83.5.1 Student Practice Rule

A. Purpose. The following Student Practice Rule is designed to encourage law schools to provide clinical instruction in litigation of varying kinds, and thereby enhance the competence of lawyers in practice before the United States courts.

B. Student Requirements. An eligible student must:

1. Be duly enrolled in a law school;

2. have completed at least three semesters of legal studies, or the equivalent;

3. be enrolled for credit in a law school clinical program which has been certified by this court;

4. be certified by the Dean of the law school, or the Dean's designee, as being of good character and sufficient legal ability, in accordance with subparagraphs 1-3 above, to fulfill the student's responsibilities as a legal intern to both the student's client and this Court;

5. be certified by this court to practice pursuant to this Rule;

6. not accept personal compensation for legal services the student performs from a client or other source.

C. Program Requirements. The program:

1. must be a law school clinical practice program for credit, in which a law student obtains academic and practice advocacy training, utilizing law school faculty or adjunct faculty for practice supervision, including federal government attorneys or private practitioners;

2. must be certified by this court;

3. must be conducted in such a manner as not to conflict with normal court schedules;

4. may accept compensation other than from a client;

5. must maintain malpractice insurance for its activities.

D. Supervisor Requirements. A supervisor must:

1. have faculty or adjunct faculty status at the responsible law school and be certified by the Dean of the law school as being of good character and sufficient legal ability and as being adequately trained to fulfill a supervisor's responsibilities.

2. be admitted to practice in this court.

3. be present with the student at all times in court, and at other proceedings, including depositions, in which testimony is taken;

4. co-sign all pleadings or other documents filed with the court;

5. assume full personal professional responsibility for the student's guidance in any work

undertaken and for the quality of a student's work, and be available for consultation with represented clients;

6. assist and counsel the student in activities mentioned in this rule, and review such activities with the student, to the extent required for the proper practical training of the student and the protection of the client;

7. be responsible to supplement oral or written work of the student as necessary to ensure proper representation of the client.

E. Certification of Student, Program and Supervisor

1. Students:

a. Certification by the law school Dean and approval by this court shall be filed with the Clerk of Court, and unless it is sooner withdrawn, shall remain in effect until expiration of 18 months;

b. Certification of a program may be withdrawn by this court at any time, in the discretion of the court, and without any showing of cause.

2. Program:

a. Certification of a program by this court shall be filed with the Clerk of Court and shall remain in effect indefinitely unless withdrawn by the court;

b. Certification of a program may be withdrawn by this court at any time.

3. Supervisor:

a. Certification of a supervisor must be filed with the Clerk of the Court, and shall remain in effect indefinitely unless withdrawn by this court;

b. Certification of a supervisor may be withdrawn by this court at any time;

c. Certification of a supervisor may be withdrawn by the Dean by mailing the notice to that effect to the Clerk of Court.

F. Activities. A certified student, under the personal supervision of the student's supervisor, as set forth in Part D of this Rule, may:

1. represent any client including federal, state or local government bodies, in any civil or administrative matter, if the client on whose behalf the student is appearing has indicated

consent in writing to that appearance and the supervising lawyer has also indicated in writing the supervisor's approval of that appearance;

2. engage in all activities on behalf of the student's client that a licensed attorney may engage in.

G. Limitation of Activities. The court retains the power to limit a student's participation in any particular case to such activities as the court deems consistent with the appropriate administration of justice.

Rule 83.5.2 Associate Counsel

(a) Except for attorneys appearing on behalf of the United States Government or a department or agency thereof pursuant to Rule 83.5(e), any attorney who is not a member of the bar of this court shall, in each proceeding in which that attorney desires to appear, have as associate counsel of record a member of the bar of this court upon whom all pleadings, motions, notices and other papers can be served conformably to the Federal Rules of Civil Procedure and rules of this court.

(b) An attorney who is not a member of the bar of this court shall not actively participate in the conduct of any trial or of any pretrial or post-trial proceeding, before this court, unless, upon application, leave to do so shall have been granted.

Rule 83.6 Rules of Disciplinary Enforcement

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Subject Headings Reference

The United States District Court for the Eastern District of Pennsylvania, in furtherance of its inherent power and responsibility to supervise the conduct of attorneys who are admitted to practice before it, or admitted for the purpose of a particular proceeding (pro hac vice), promulgates the following Rules of Disciplinary Enforcement superseding all of its other Rules pertaining to disciplinary enforcement heretofore promulgated.

Rule I -- Attorneys Convicted of Crimes.

A. Upon the filing with this court of a certified copy of a judgment of conviction demonstrating that any attorney admitted to practice before the court has been convicted in any court of the United States, or the District of Columbia, or of any state, territory, commonwealth or possession of the Untied States of a serious crime as hereinafter defined, the court shall enter an order immediately suspending that attorney, whether the conviction resulted from plea of guilty or nolo contendere or from a verdict after trial or otherwise, and regardless of the pendency of any appeal, until final disposition of a disciplinary proceeding to be commenced upon such conviction. A copy of such order shall immediately be served upon the attorney. Upon good cause shown, the court may set aside such order when it appears in the interest of justice to do so.

B. The term "serious crime" shall include any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit a "serious crime".

C. A certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney based upon the conviction.

D. Upon the filing of a certified copy of a judgment of conviction of an attorney for a serious crime, the court shall in addition to suspending that attorney in accordance with

the provisions of this Rule, also refer the matter to counsel for the institution of a disciplinary proceeding before the court in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted will not be brought to final hearing until all appeals from the conviction are concluded.

E. Upon the filing of a certified copy of a judgment of conviction of an attorney for a crime not constituting a "serious crime," the court may refer the matter to counsel for whatever action counsel may deem warranted, including the institution of a disciplinary proceeding before the court; provided, however, that the court may in its discretion make no reference with respect to convictions for minor offenses.

F. An attorney suspended under the provisions of this Rule will be reinstated immediately upon the filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed but the reinstatement will not terminate any disciplinary proceeding then pending against the attorney, the disposition of which shall be determined by the court on the basis of all available evidence pertaining to both guilt and the extent of discipline to be imposed.

Rule II -- Discipline Imposed By Other Courts.

A. Any attorney admitted to practice before this court shall, upon being subjected to public discipline by any other court of the United States or the District of Columbia, or by a court of any state, territory, commonwealth or possession of the United States, promptly inform the Clerk of this court of such action.

B. Upon the filing of a certified or exemplified copy of a judgment or order demonstrating that an attorney admitted to practice before this court has been disciplined by another court, this court shall forthwith issue a notice directed to the attorney containing:

1. a copy of the judgment or order from the other court; and

2. an order to show cause directing that the attorney inform this court within 30 days after service of that order upon the attorney, personally or by mail, of any claim by the attorney predicated upon the grounds set forth in (d) hereof that the imposition of the identical discipline by the court would be unwarranted and the reasons therefor.

C. In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in this court shall be deferred until such stay expires.

D. Upon the expiration of 30 days from service of the notice issued pursuant to the provisions of (B) above, this court shall impose the identical discipline unless the respondent-attorney demonstrates, or this court finds, that upon the face of the record

upon which the discipline in another jurisdiction is predicated it clearly appears:

1. that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

2. that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this court could not, consistent with its duty, accept as final the conclusion on that subject; or

3. that the imposition of the same discipline by this court would result in grave injustice; or

4. that the misconduct established is deemed by this court to warrant substantially different discipline.

Where this court determines that any of said elements exist, it shall enter such other order as it deems appropriate.

E. In all other respects, a final adjudication in another court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in the court of the United States.

F. This court may at any stage appoint counsel to prosecute the disciplinary proceeding.

Rule III -- Disbarment on Consent or Resignation in other Courts.

A. Any attorney admitted to practice before this court who shall be disbarred on consent or resign from the bar of any other court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending, shall, upon the filing with this court of a certified or exemplified copy of the judgment or order accepting such disbarment on consent or resignation, cease to be permitted to practice before this court and be stricken from the roll of attorneys admitted to practice before this court.

B. Any attorney admitted to practice before this court shall, upon being disbarred on consent or resigning from the bar of any other court of the United States or the District of Columbia, or from the Bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending, promptly inform the Clerk of this court of such disbarment on consent or resignation.

Rule IV -- Standards for Professional Conduct

A. For misconduct defined in these Rules, and for good cause shown, and after notice and

opportunity to be heard, any attorney admitted to practice before this court may be disbarred, suspended from practice before this court, reprimanded or subjected to such other disciplinary action as the circumstances may warrant.

B. Acts or omissions by an attorney admitted to practice before this court, individually or in concert with any other person or persons, which violate the Rules of Professional Conduct adopted by this Court shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of any attorney-client relationship.

The Rules of Professional Conduct adopted by this court are the Rules of Professional Conduct adopted by the Supreme Court of Pennsylvania, as amended from time to time by that state court, except as otherwise provided by specific Rule of this Court after consideration of comments by representatives of bar associations within the state, except that prior court approval as a condition to the issuance of a subpoena addressed to an attorney in any criminal proceeding, including a grand jury, shall not be required. The propriety of such a subpoena may be considered on a motion to quash.

Rule V -- Disciplinary Proceedings.

A. When misconduct or allegations of misconduct which, if substantiated, would warrant discipline on the part of an attorney admitted to practice before this court shall come to the attention of a Judge of this court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these Rules, the judge shall refer the matter to counsel for investigation and the prosecution of a formal disciplinary proceeding or the formulation of such other recommendation as may be appropriate.

B. Should counsel conclude after investigation and review that a formal disciplinary proceeding should not be initiated against the respondent-attorney because sufficient evidence is not present, or because there is pending another proceeding against the respondent-attorney, the disposition of which in the judgment of the counsel should be awaited before further action by this court is considered or for any other valid reason, counsel shall file with the court a recommendation for disposition of the matter, whether by dismissal, admonition, deferral, or otherwise setting forth the reasons therefor.

C. To initiate formal disciplinary proceedings, counsel shall obtain an order of this court upon a showing of probable cause requiring the respondent-attorney to show cause within 30 days after service of that order, upon that attorney, personally or by mail, why the attorney should not be disciplined.

D. Upon the respondent-attorney's answer to the order to show cause, if any issue of fact is raised or the respondent-attorney wishes to be heard in mitigation this court shall set the matter for prompt hearing before one or more judges of this court, provided however that

if the disciplinary proceeding is predicated upon the complaint of a judge of this court the hearing shall be conducted before a panel of three other judges of this court appointed by the Chief Judge, or, if there are less than three judges eligible to serve or the Chief Judge is the complainant, by the Chief Judge of the Court of Appeals for this Circuit.

E. The judge or judges to whom any disciplinary proceeding is assigned shall make a report and recommendation to the court after a hearing. The court shall decide the matter.

Rule VI -- Disbarment on Consent While Under Disciplinary Investigation or Prosecution.

A. Any attorney admitted to practice before this court who is the subject of an investigation into, or a pending proceeding involving, allegations of misconduct may consent to disbarment, but only by delivering to this court an affidavit stating that the attorney desires to consent to disbarment and that:

l. the attorney's consent is freely and voluntarily rendered; the attorney is not being subjected to coercion or duress; the attorney is fully aware of the implications of so consenting;

2. the attorney is aware that there is a presently pending investigation or proceeding involving allegations that there exist grounds for the attorney's discipline the nature of which the attorney shall specifically set forth;

3. the attorney acknowledges that the material facts so alleged are true; and

4. the attorney so consents because the attorney knows that if charges were predicated upon the matters under investigation, or if the proceeding were prosecuted, the attorney could not successfully defend himself or herself.

B. Upon receipt of the required affidavit, this court shall enter an order disbarring the attorney.

C. The order disbarring the attorney on consent shall be a matter of public record. However, the affidavit required under the provisions of this Rule shall not be publicly disclosed or made available for use in any other proceeding except upon the order of this court.

Rule VII -- Reinstatement.

A. After Disbarment or Suspension. An attorney suspended for three months or less shall be automatically reinstated at the end of the period of suspension upon the filing with the court of an affidavit of compliance with the provisions of the order. An attorney suspended for more than three months or disbarred may not resume practice until reinstated by order of this court.

B. Time of Applications Following Disbarment. A person who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least five years from the effective date of the disbarment.

C. Hearing on Application. Petitions for reinstatement by a disbarred or suspended attorney under this Rule shall be filed with the Chief Judge of this court. Upon receipt of the petition, the Chief Judge shall promptly refer the petition to counsel and shall assign the matter for prompt hearing before one or more judges of this court, provided however that if the disciplinary proceeding was predicated upon the complaint of a judge of this court the hearing shall be conducted before a panel of three other judges of this court appointed by the Chief Judge, or, if there are less than three judges eligible to serve or the Chief Judge was the complainant, by the Chief Judge of the Court of Appeals for this Circuit. The judge or judges assigned to the matter shall within 30 days after referral schedule a hearing at which the petitioner shall have the burden of demonstrating by clear and convincing evidence that the petitioner has the moral qualifications, competency and learning in the law required for admission to practice law before this court and that the petitioner's resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or subversive of the public interest.

D. Duty of Counsel. In all proceedings upon a petition for reinstatement, cross-examination of the witnesses of the respondent-attorney and the submission of evidence, if any, in opposition to the petition shall be conducted by counsel.

E. Deposit for Costs of Proceeding. Petitions for reinstatement under this Rule shall be accompanied by an advance cost deposit in an amount to be set from time to time by the court to cover anticipated costs of the reinstatement proceeding.

F. Conditions of Reinstatement. If the petitioner is found unfit to resume the practice of law, the petition shall be dismissed. If the petitioner is found fit to resume the practice of law, the judgment shall reinstate the petitioner, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings, and upon the making of partial or complete restitution to parties harmed by petitioner whose conduct led to the suspension or disbarment. Provided further, that if the petitioner has been suspended or disbarred for five years or more, reinstatement may be conditioned,

in the discretion of the judge or judges before whom the matter is heard, upon the furnishing of proof of competency and learning in the law, which proof may include certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment.

G. Successive Petitions. No petition for reinstatement under this Rule shall be filed within one year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

H. The judge or judges to whom any petition for reinstatement is assigned shall make a report and recommendation to the court after a hearing. The court shall decide the matter.

Rule VIII -- Attorneys Specially Admitted.

Whenever an attorney applies to be admitted or is admitted to this court for purposes of a particular proceeding (pro hac vice), the attorney shall be deemed thereby to have conferred disciplinary jurisdiction upon this court for any alleged misconduct of that attorney arising in the course of or in the preparation for such proceeding.

Rule IX -- Service of Papers and Other Notices.

Service of an order to show cause instituting a formal disciplinary proceeding shall be made by personal service or by registered or certified mail addressed to the respondent-attorney at the address shown in the roll of attorneys of this court or the most recent edition of the Legal Directory. Service of any other papers or notices required by these Rules shall be deemed to have been made if such paper or notice is addressed to the respondent-attorney at the address shown on the roll of attorneys of this court or the most recent edition of the Legal Directory; or the respondent's attorney at the address indicated in the most recent pleading or other document filed by them in the course of any proceeding.

Rule X -- Appointment of Counsel.

Whenever counsel is to be appointed pursuant to these Rules to investigate allegations of misconduct or prosecute disciplinary proceedings or in conjunction with a reinstatement petition filed by a disciplined attorney this court shall appoint as counsel the disciplinary agency of the Supreme Court of Pennsylvania, or other disciplinary agency having jurisdiction. If no such disciplinary agency exists or such disciplinary agency declines appointment, or such appointment is clearly inappropriate, this court shall appoint as counsel one or more members of the Bar of this court to investigate allegations of misconduct or to prosecute disciplinary proceedings under these rules, provided, however,

that the respondent-attorney may move to disqualify an attorney so appointed who is or has been engaged as an adversary of the respondent-attorney in any matter. Counsel, once appointed, may not resign unless permission to do so is given by this court.

Rule XI -- Duties of the Clerk.

A. Upon being informed that an attorney admitted to practice before this court has been convicted of any crime, the Clerk of this court shall determine whether the clerk of the court in which such conviction occurred has forwarded a certificate of such conviction to this court. If a certificate has not been forwarded, the Clerk of this court shall promptly obtain a certificate and file it with this court.

B. Upon being informed that an attorney admitted to practice before this court has been subjected to discipline by another court, the Clerk of this court shall determine whether a certified or exemplified copy of the disciplinary judgment or order has been filed with this court, and if not, the Clerk shall promptly obtain a certified or exemplified copy of the disciplinary judgment or order and file it with this court.

C. Whenever it appears that any person convicted of any crime or disbarred or suspended or censured or disbarred on consent by this court is admitted to practice law in any other jurisdiction or before any other court, the Clerk of this court shall, within ten days of that conviction, disbarment, suspension, censure, or disbarment on consent, transmit to the disciplinary authority in such other jurisdiction, or for such other court, a certificate of the conviction or a certified exemplified copy of the judgment or order of disbarment, suspension, censure, or disbarment on consent, as well as the last known office and residence addresses of the defendant or respondent.

D. The Clerk of this court shall, likewise, promptly notify the National Discipline Data Bank operated by the American Bar Association of any order imposing public discipline upon any attorney admitted to practice before this court.

Rule XII -- Jurisdiction.

Nothing contained in these Rules shall be construed to deny to this court such powers as are necessary for the court to maintain control over proceedings conducted before it, such as proceedings for contempt under Title 18 of the United States Code or under Rule 42 of the Federal Rules of Criminal Procedure.

Rule XIII -- Effective Date.

These rules shall become effective on August 1, 1980, provided that any formal disciplinary proceeding then pending before this court shall be concluded under the procedure existing prior to the effective date of these Rules.

Background of the Proposed Model Federal Rules of Disciplinary Enforcement and Recommendation of the Judicial Conference Committee on Court Administration.

For some years there has been a demonstrated concern by federal judges and the lawyers who practice in the federal courts over the lack of uniform rules of disciplinary enforcement in the federal courts. The American Bar Association through its Standing Committee on Professional Discipline (and its two predecessor committees) has provided the various state courts with a model plan of state court coordinated rules of disciplinary enforcement for their consideration and use. A vast majority of the states have adopted substantially the A.B.A. model plan.

On the federal court side, in l970 as a result of a previous study, a report of an American Bar Association Committee on Evaluation of Disciplinary Enforcement, headed by the late Justice Tom C. Clark was issued, and was unanimously approved by the American Bar Association. Following that report, in 1973 the Standing Committee on Professional Discipline of the American Bar Association was created to continue the work in view of the conclusion earlier reached by the Clark Committee that effective disciplinary enforcement in the federal courts requires that professional discipline for the entire federal system be coordinated among the courts which constitute that system and also coordinated with existing state disciplinary agencies within all federal court jurisdictions. The Clark Report highlighted the existing problem of inadequate provision for reciprocal action when an attorney disciplined in one jurisdiction is admitted to practice in another jurisdiction, as well as the problem of discipline of attorneys in federal courts based on prior state court discipline.

On April 17, 1975, as work on a proposed draft of uniform disciplinary rules of procedure progressed under the guidance of the A.B.A. Standing Committee, the Director of the Administrative Office of the United States Courts, the Director of the Federal Judicial Center and others met with the Standing Committee in furtherance of the ongoing study. On July 31, 1975, the Standing Committee forwarded to the Administrative Office of the United States Courts a proposed set of Uniform Guidelines (rules) of Disciplinary Enforcement with the request that they be studied by the Judicial Conference of the United States.

At the direction of the Chief Justice the Committee on Court Administration of the Judicial Conference on April 11, 1976, accepted the responsibility of studying the Proposed Uniform Rules of Disciplinary Enforcement and the making of appropriate comments and recommendations to the Judicial Conference.

On April 12, 1976, the Committee on Court Administration, through its Subcommittee on Judicial Improvements, sent the Proposed Draft of the Uniform Rules to all federal judges requesting that they study the proposed draft and make such comments, criticisms, and recommendations as they thought appropriate A substantial number of federal judges

responded, many with constructive comments and suggestions which are carefully studied by the Subcommittee on Judicial Improvements and sent to the A.B.A. Standing Committee for its study. Thereafter, the Subcommittee met with representatives of the A.B.A. Standing Committee. There resulted a revised proposed draft written in the light of the earlier comments and suggestions. This revised draft was submitted through the committee on Court Administration to the Judicial Conference at its September 23-24, 1976 Session with the recommendation that the judges of the federal courts should have further opportunity to comment on the revised draft and to submit their views.

The Judicial Conference accepted the recommendation of the Committee on Court Administration, broadened it to include all state bar presidents, and directed dissemination of the revised draft to all federal judges and state bar presidents for their study, views and comments. Again, a substantial number of federal judges as well as State bar presidents and state bar associations responded with comments and suggestions. All of these comments and suggestions were fully considered by the Subcommittee on Judicial Improvements and after consultation with the A.B.A. Standing Committee some additional revisions in the Proposed Uniform Rules were made in the light of those suggestions and comments.

On February 14, 1978, at the midyear meeting of the American Bar Association in New Orleans the Standing Committee presented the currently Revised Proposed Uniform Rules to the House of Delegates of the American Bar Association for its consideration and action. On that same date the House of Delegates approved the Proposed Uniform Rules of Disciplinary Enforcement with several minor suggestions.

At its June, 1978 meeting the Subcommittee on Judicial Improvements reviewed the suggestions made by the A.B.A. House of Delegates, accepted them as strengthening and clarifying the Proposed Uniform Rules and unanimously approved a revised draft incorporating those recommendations.

It is the expressed hope of the Committee and Subcommittee members who have actively participated in the study that the various courts of the United States will choose to adopt these Proposed Rules so as to assure uniformity of procedure in the federal court system on a coordinated basis with the various state systems, as well as to assure an effective and reasonable procedure for needed discipline within the federal system.

Recommendation

The subcommittee on Judicial Improvements unanimously recommends to the Committee

on Court Administration that it approve these Revised Proposed Model Federal Rules of Disciplinary Enforcement and in turn recommended to the Judicial Conference of the United States that it approve these Proposed Model Rules and recommend their adoption by the various courts of the United States on an optional basis.

Rule 83.6.1 Expedition of Court Business

(a) Attorneys shall promptly advise the clerk of the settlement or other final disposition of a case.

(b) No attorney shall, with just cause, fail to appear when that attorney's case is before the court on a call, motion, pretrial or trial, or shall present to the court vexatious motions or vexatious opposition to motions or shall fail to prepare for presentation to the court, or shall otherwise so multiply the proceedings in a case as to increase unreasonably and vexatiously the costs thereof.

(c) Any attorney who fails to comply with (a) or (b) may be disciplined as the court shall deem just.

LOCAL RULES OF CIVIL PROCEDURE

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CORRELATION TABLE - LOCAL RULES OF CIVIL PROCEDURE TO FEDERAL RULES OF CIVIL PROCEDURE

The Local Rules of Civil Procedure for the Eastern District of Pennsylvania have been renumbered to create nationwide uniformity. Below are listed the Local Rules in the order of their previously assigned number with the newly assigned number.

Local Rule 1 Effective Date; Revocation of Prior Rules.
Renumbered: 1.1

Local Rule 2 Standing Orders; Effect Upon.
Renumbered: 1.1.1

Local Rule 3 Assignment of Court Business.
Renumbered: 40.1

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Renumbered: 40.3

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Local Rule 7 United States Magistrate.
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Local Rule 8 Arbitration - The Speedy Civil Trial.
Renumbered: 53.2

Local Rule 9 Appearance of Judicial Officer of This Court as Character Witness.
Renumbered: 45.1.1

Local Rule 10 Broadcasting, Filming and Recording in Courtrooms and Appurtenant Areas.
Renumbered: 83.3

Local Rule 11 Admission to Practice.
Renumbered: 83.5

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Renumbered: 83.5.1

Local Rule 13 Associate Counsel.
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Local Rule 17 Notices; Stipulations.
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Renumbered: 5.1

Local Rule 19 Expedition of Court Business.
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Local Rule 20 Motion Practice.
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Local Rule 22 Time of Motion to Join Third Party.
Renumbered: 14.1

Local Rule 23 Dismissal and Abandonment of Actions.
Renumbered: 41.1

Local Rule 24 Discovery.
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Local Rule 30 Pleading Claim for Unliquidated Damages.
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Local Rule 31 Transfers Under Section 1404(a).
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Local Rule 32 Liz Pendens.
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Local Rule 33 Letters Rogatory.
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Local Rule 34 Jury.
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Local Rule 35 Subpoenas for Trial.
Renumbered: 45.1

Local Rule 36 Attachments for Witnesses.
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Local Rule 37 Conduct of Trials.
Renumbered: 43.1

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Local Rule 42 Costs: Security for, Taxation, Payment.
Renumbered: 54.1

Local Rule 43 Marshal's Sales.
Renumbered: 53.1

Local Rule 44 Petitions for Writs of Habeas Corpus and 2255 Motions.
Renumbered: 9.3

Local Rule 45 Judgments Pursuant to Warrant of Attorney.
Renumbered: 56.1

Local Rule 46 Bail, Sureties and Security.
Renumbered: 67.1

Local Rule 47 Civil Cases Exempt From Issuance of a Scheduling Order.
Renumbered: 16.2